

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

GROUND FISH FORUM, INC.,

Plaintiff,

vs.

NATIONAL MARINE FISHERIES
SERVICE, *et al.*,

Defendants,

and

CENTRAL BERING SEA FISHERMAN'S
ASSOCIATION, *et al.*,

Intervenor-Defendants.

CIVIL NO. 3:23-cv-00283-JMK

**FEDERAL DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT AND CROSS-MOTION
FOR SUMMARY JUDGMENT**

Federal Defendants – National Marine Fisheries Service (“NMFS”); National Oceanic and Atmospheric Administration (“NOAA”); Gina Raimondo – in her official capacity as the United States Secretary of Commerce; and, Janet Coit, in her official capacity as Assistant Administrator of NOAA – respectfully cross-move under Federal Rule of Civil Procedure 56 for summary judgment on all claims in Plaintiff’s Complaint. *See* ECF No. 1.

Federal Defendants are entitled to summary judgment because NMFS complied with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and the National Environmental Policy Act in issuing the rule to implement Amendment 123 to the Fishery Management Plan for the Groundfish of the Bering Sea

and Aleutian Islands. This cross-motion is supported by the previously filed Administrative Records (ECF Nos. 20 and 25), the accompanying Memorandum in Support of Defendants' Cross Motion and Opposition to Plaintiff's Motion for Summary Judgment, and upon such oral and/or documentary evidence as may be presented in any hearing on this motion.

Plaintiffs also waived all claims not raised in their opening brief (ECF No. 36). *See Friends of Yosemite Valley v. Kempthorne*, 520 F.3d 1024, 1033 (9th Cir. 2008) ("Arguments not raised by a party in its opening brief are deemed waived."); *see, e.g.*, ECF No. 1 (First Claim ¶ 87(e)-(m); Second Claim ¶¶ 93-96).

Dated: June 27, 2024

Respectfully submitted,

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Environment & Natural Resources Division

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